IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 10784 of 2004(H)

PETITIONERS:

1. **A.K.ABDURAHIMAN, S/O. IMBICHIYALI AGED 51 YEARS, RESIDING AT ANSHAD VILLA, KOYILANDI TALUK, KUNNATHARA AMSOM, KANNUR DESOM, KANNUR DISTRICT**

2. **A.K.NAFEESA W/O. A.K.ABDURAHIMAN, RESIDING AT ANSHAD VILLA, KOYILANDI TALUK, KUNNATHARA AMSOM, KANNUR DESOM, KANNUR DISTRICT**

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

1. **ULLYERI GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, ULLYERI, KOYILANDI TALUK**

2. **THE SUB INSPECTOR OF POLICE, ATHOLI, KOZHIKODE DISTRICT.**

3. **RAVI, AREEKULANGARA, ULLYERI, KOYILANDI TALUK, KOZHIKODE DISTRICT.**

4. **KUNHIKRISHNAN NAIR, ULLYERI, KOYILANDI TALUK, KOZHIKODE DISTRICT**

5. **CHALIL MADHAVAN MASTER, ULLYERI, KOYILANDI TALUK, KOZHIKODE DISTRICT.**

6. **KELAPPA KURUP, ULLYERI, KOYILANDI TALUK, KOZHIKODE DISTRICT.**

7. **ANIL S/O. KANARAN, EENTHATTU, ULLYERI. KOYILANDI TALUK, KOZHIKODE DISTRICT.**

8. MR.E.VINOD S/O. KANARAN, AGED 30 YEARS, EENTHATTU HOUSE, ULLYERI AMSOM AND DESOM, KOYILANDI TALUK, KOZHIKODE DISTRICT

9. T.M.BABU S/O. CHANDRASEKHARAN NAIR, AGED 33 YEARS, RESIDING IN THE ABOVE AMSOM AND DESOM.

BY ADV. SRI.K.N.SASEENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE BUILDING PERMIT ISSUED BY THE PANCHAYAT DTD.11.7.2001.

EXT.P2: COPY OF THE PERMISSION ISSUED BY THE PANCHAYAT DATED 26.11.2003.

EXT.P3: COPY OF THE PLAINT IN O.S.No.2/2004.

EXT.P4: COPY OF THE AFFIDAVIT FILED IN SUPPORT OF THE INJUNCTION APPLICATION BY THE RESPONDENTS 8 AND 9.

EXT.P5: COPY OF THE ORDER IN IA NO.31/2004 DATED 17.1.2004.

EXT.P6: COPY OF THE COUNTER AFFIDAVIT FILED BY THE PANCHAYAT IN I.A.NO.31/2004.

EXT.P7: COPY OF THE NOTICE ISSUED BY THE SI OF POLICE ATHOLI DATED 20.2.2004.

EXT.P8: COPY OF THE REPLY ISSUED BY THE PANCHAYAT TO THE SI OF POLICE.

EXT.P9: COPY OF THE MODIFIED ORDER IN IA NO.31/2004 IN OS NO.2/2004 DATED 10.3.2004.

TRUE COPY

P.A.TO JUDGE

THOTTATHIL B.RADHAKRISHNAN,J

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W.P.(C).No.10784 of 2004

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Dated this the 11th day of July, 2007

JUDGMENT

The petitioners applied for a building permit. The same was sanctioned by the Panchayat. Respondents 8 and 9 filed a suit. It is pleaded by the writ petitioners that the civil court has passed an order in their favour. In the meanwhile, the impugned Ext.P7 was issued by the Police Officer, essentially interfering with the construction. This Court granted an interim order on 29.3.2004 permitting further construction on terms setforth therein.

2. There is no counter affidavit on record.

3. The police do not have any right to interfere with the construction activities. This is more so when the litigation between the private parties are gaining attention of the civil court. Not only that, if there is any violation of Municipality Act, the statutory authorities are empowered to take appropriate action.

In the result, the impugned Ext.P7 is quashed and it is directed that the parties will be governed by the decision of the civil court and also that any violation of the Municipality Act, would be taken care of only in terms of the provisions of the relevant statutes.

THOTTATHIL B.RADHAKRISHNAN, JUDGE

dvs